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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,445	09/23/2003	Joseph A. Marino	C516.12-0014	2339
164	7590	05/04/2005	EXAMINER	
KINNEY & LANGE, P.A. THE KINNEY & LANGE BUILDING 312 SOUTH THIRD STREET MINNEAPOLIS, MN 55415-1002			PRONE, CHRISTOPHER D	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,445

Applicant(s)

MARINO ET AL.

Examiner

Christopher D Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/22/03 8/26/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 12, 14, 21, 23, 42, and 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12, 21, and 42 recite the limitation "the fixed center post" in the third line. There is insufficient antecedent basis for this limitation in the claim.

Claims 14, 23, and 44 recite the limitation "the fixed center post" in the first line. There is insufficient antecedent basis for this limitation in the claim.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the structure wherein the puller arms are offset from each other by about 45 degrees must be shown or the feature(s) canceled from the claim(s). Applicant discloses a figure wherein only 2 puller arms are offset by about 45, but the other arms are offset at an angle substantially greater than 45 degrees. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate

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prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

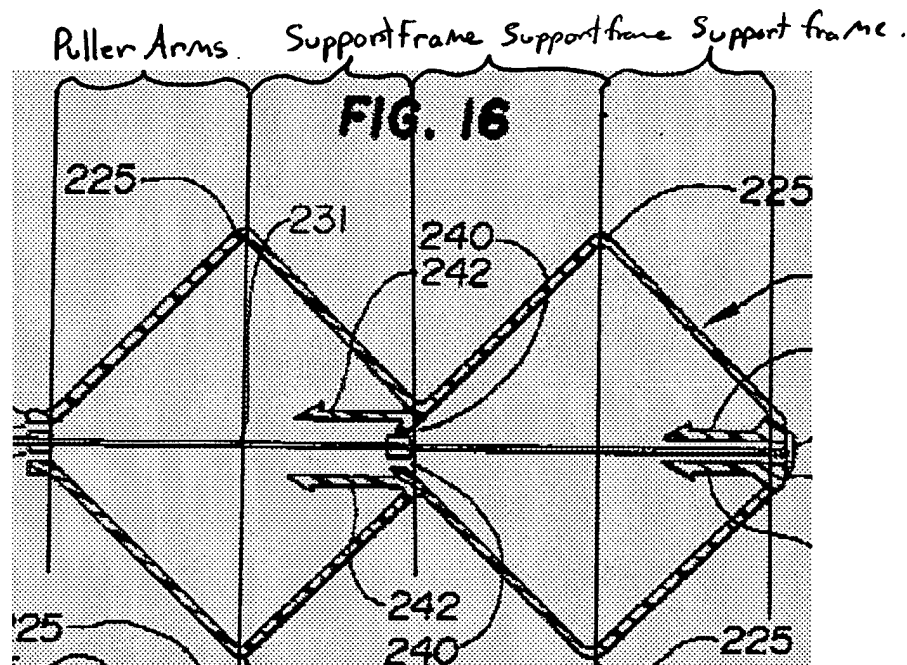
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 8-10, 12, 15-19, 21, 24-26, 28, 31-33, 35, 38-40, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 5,853,422 Huebsch.

In regards to claims 1, 8, 17, 24, 31, and 38 Huebsch discloses the same invention being an automatic loading mechanism for an occlusion device comprising: a

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occluding body (10) with fixed and floating center posts (232) (216), a plurality of puller arms (222), first and second support frames (222) comprising elastic shape memory fixation devices described in column 3 on lines 64-67 of Huebsch, right and left sheets described in column 4 on lines 25-26 of Huebsch, and right and left support hoops (216) (218) shown in figures 1-25 of Huebsch. See figure below for more detailed description of the puller arms and support frames.



In reference to claims 2, 9, 18, 25, 32, and 39, Huebsch discloses the same invention wherein the puller arms are constructed of nickel titanium described in column 3 on lines 64-67 of Huebsch.

In reference to claims 3, 10, 19, 26, 33, and 40, Huebsch discloses the same invention wherein an angle between adjacent puller arms is between about 5 degrees and about 180 degrees shown in figures 3 and 4 of Huebsch.

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In reference to claims 5, 12, 21, 28, 35, and 42, Huebsch discloses the same invention wherein the floating center post comprises an axially extending groove (240) which reversibly connects with an axially extending pin (236) extending from the fixed center post shown in figures 15-17 of Huebsch.

In reference to claim 15 Huebsch discloses the same invention wherein the support frames each comprise a wire hoop (216) (218) and a plurality of support arms (222) shown in figures 1-25 of Huebsch and in the figure above.

In reference to claim 16 Huebsch discloses the same invention wherein the support arms are constructed of stranded wire described in column 4 on lines 1-2 of Huebsch.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 11, 20, 27, 34, and 41 are rejected under 35 U.S.C. 103 as being unpatentable over United States Patent 5,853,422 Huebsch in view of United States Patent 6,261,309 Urbanski.

Huebsch discloses the invention substantially as claimed being an automatic loading mechanism for an occlusion device. However, Huebsch does not disclose a formation wherein the puller arms offset from one another by about 45 degrees.

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Urbanski teaches the use of a hemostatic plug wherein the support arms are arranged so that they are offset from each other by about 45 degrees (shown in figures 1E-1F in the same field of endeavor for the purpose of having equally spaced arms, which provide an even distribution of force.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the support arm arrangement of Urbanski with occlusion device of Huebsch in order to provide extra support and an even distribution of the force load.

Claims 6, 7, 13, 14, 22, 23, 29, 30, 36, 37, 43, and 44 are rejected under 35 U.S.C. 103 as being unpatentable over United States Patent 5,853,422 Huebsch in view of United States Patent 5,733,294 Forber.

Huebsch discloses the invention substantially as claimed being an automatic loading mechanism for an occlusion device. However, Huebsch does not disclose that the floating and fixed center posts are constructed of platinum-iridium.

Forber teaches the use of an occlusion device with center posts constructed of platinum-iridium (column 3 lines 42-43) in the same field of endeavor for the purpose of providing a center post with a high level of radiopacity.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the platinum-iridium used in Forber with the occlusion device of Huebsch in order to increase radiopacity giving the surgeon better visibility of the device.

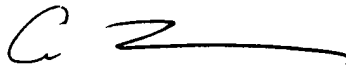
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D Prone whose telephone number is (571) 272-6085. The examiner can normally be reached on Monday Through Fri 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CDP


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